

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK----- X  
**MIGUEL HERREROS TORRES** and **JUAN**  
**DANIEL ORTIZ REYES,**

Plaintiff,

- against -

**894 DEKALB PIZZA CORPORATION** and  
**ROBERTO “DOE”,**Defendants.  
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: **MEMORANDUM DECISION**  
: **AND ORDER**

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: 19-CV-5750 (AMD) (LB)

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**ANN M. DONNELLY**, United States District Judge:

The plaintiffs filed this action on October 11, 2019 alleging violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*, and the New York Labor Law, §§ 650, *et seq.*, by their former employer. (ECF No. 1.) The named defendants, a pizza restaurant (“Dekalb Pizza”), and the operator thereof (Roberto “Doe”), were served in early January 2020. (ECF Nos. 9-10.) The clerk filed an entry of default by Dekalb Pizza on February 20, 2020. (ECF No. 13.) There was no such entry for the “Doe” defendant.

On October 1, 2020, the plaintiff filed a motion for default judgment against both defendants. (ECF No. 16.) I referred the motion to Magistrate Judge Steven Gold the next day.

Judge Gold issued a thorough report and recommendation on December 28, 2020, in which he recommends that the plaintiffs’ motion be granted against both defendants jointly and severally, but that judgment be entered only against Dekalb Pizza. (ECF No. 19 at 22.) Judge Gold also recommends that the Court: (i) award Mr. Reyes damages totaling \$67,141.86—consisting of \$27,444.64 in unpaid overtime compensation, \$1,126.29 in spread-of-hours compensation, \$10,000 in statutory damages and \$28,570.93 in liquidated damages—and also

award pre-judgment interest on \$28,570.93 at 9% per year from September 24, 2018, until the date final judgment is entered; (ii) award Mr. Torres damages totaling \$102,266.28—consisting of \$42,483.00 in unpaid overtime compensation, \$3,650.14 in spread-of-hours compensation, \$10,000 in statutory damages and \$46,133.14 in liquidated damages—and also award pre-judgment interest on \$46,133.14 at the rate of 9% per year from October 4, 2018, until the date final judgment is entered; (iii) award each plaintiff post-judgment interest at the statutorily prescribed rate from the date judgment is entered until the judgment is paid; and (iv) award the plaintiffs a total of \$3,485.00 in attorney’s fees and \$400.00 in costs. (*Id.*) No party has filed an objection to Judge Gold’s report and recommendation.

In a January 20, 2021 order, I directed the plaintiffs to file proof of service of the report and recommendation on the defendants by February 3, 2021. On February 10, 2021, I granted the plaintiffs an extension until February 17, 2021. The plaintiffs filed proof of service on February 17, 2021, and neither defendant has appeared or objected since that date.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund L.P.*, 823 F.Supp.2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks omitted).

I have reviewed Judge Gold’s well-reasoned and comprehensive report and recommendation and find no error. Accordingly, I adopt the report and recommendation in its entirety.

**SO ORDERED.**

s/Ann M. Donnelly

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Ann M. Donnelly  
United States District Judge

Dated: Brooklyn, New York  
March 5, 2021